

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 153, "Funding for Local Services," Iowa Administrative Code.

These amendments rescind the amendments that were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on January 13, 2010, as **ARC 8486B**, and readopt them after a notice period to solicit public comments. The amendments:

- Provide for disenrollment of members from the State Payment Program when available funds are insufficient to meet the costs of services for all of the members enrolled.
- Require the county central points of coordination for mental health, mental retardation, and developmental disability services (CPCs) to provide for evidence of receipt of an application for State Payment Program funding.
- Clarify the assignment to a waiting list for application approval.
- Prohibit reimbursement for case management costs eligible for Medicaid reimbursement, appointments and consultations for which the member did not appear, and other specified administrative and service costs.

Notice of Intended Action to solicit comments on these amendments was published in the Iowa Administrative Bulletin on January 13, 2010, as **ARC 8438B**. The Department received no comments on the Notice of Intended Action. Amendments to subrules 153.54(5) and 153.58(1) are not included in this filing because those changes were readopted in **ARC 8611B**, published herein.

Disenrollment may be necessary to reduce State Payment Program expenses due to Executive Order Number 19, which mandates a 10 percent reduction in all state appropriations. Iowa Code section 8.38 states "No state department, institution, or agency . . . shall expend funds or approve claims in excess of the appropriations made thereto, nor expend funds for any purpose other than that for which the money was appropriated."

To implement the disenrollment provisions, each member will be assigned a payment slot number based on the member's application date and commitment status. The lowest numbers will be assigned to members in involuntary commitment status. When the person is released from the commitment order, a new payment slot will be assigned according to the procedures for all other applicants.

When disenrollment is necessary, members will be disenrolled in reverse order of their payment slot numbers, i.e., with the highest number (most recent approval) first. The Department will give members timely and adequate notice of the funding decision. This action will be subject to appeal according to the Department's procedures, which provide for continuation of assistance until the final appeal decision is reached, with recoupment of excess assistance if the final decision upholds the Department.

These amendments do not provide for waivers in specified situations other than the preference accorded to funding for involuntary services provided under court commitment. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission adopted these amendments on February 18, 2010.

These amendments are intended to implement Iowa Code section 331.440.

These amendments shall become effective on April 14, 2010.

The following amendments are adopted.

ITEM 1. Rescind subrule 153.53(3) and adopt the following **new** subrule in lieu thereof:

153.53(3) Application submission. The CPC or the CPC's designee shall:

- a. Submit the complete application as defined in subrule 153.53(2) to the division within 15 business days of the date the CPC or designee receives a completed and signed CPC application form containing a properly completed legal settlement worksheet.

b. Generate a delivery receipt for the application, whether sent to the division by E-mail, fax, or certified mail. The division may require the delivery receipt when it is alleged that an application was sent but the division has no record of receiving the application.

ITEM 2. Rescind subrule 153.54(3) and adopt the following **new** subrule in lieu thereof:

153.54(3) Effective date of eligibility.

a. An applicant's eligibility for state payment program funding shall be effective from the application date as defined in subrule 153.53(4).

b. Each member shall be assigned a payment slot number based on the member's application date and commitment status.

(1) Members under a court-ordered involuntary commitment shall be considered the first priority for payment slot number assignment, in order of oldest commitment date first. The CPC shall notify the department within seven days of the date when the commitment order is released. When the commitment order is released, the member shall be reassigned a payment slot according to subparagraph 153.54(5) "b"(2).

(2) Slot number assignment for members who are not under an involuntary commitment order shall be based on the application date. For a member who was on a commitment order which has been released, the application date is the date of the member's first commitment order or the member's original application date, whichever is earliest. If there are multiple members with the same application date, the members will be prioritized by the birth month and day (earliest birth date first). If there are multiple members with the same birth month and day, the last four digits of the members' social security numbers will be used, with the lowest number being considered first.

ITEM 3. Rescind subrule 153.55(2) and adopt the following **new** subrule in lieu thereof:

153.55(2) Excluded costs. The following costs are excluded from payment by the state payment program:

a. Services received before the effective date of eligibility.

b. The cost of local services that the member is eligible to have funded by private sources or by other state or federal programs or funds, such as medical assistance program services or services provided in a state institution.

c. Scheduled appointments or consultations for which the member did not appear.

d. Service management (county chart of accounts numbers beginning with 22-000) for members eligible for Medicaid targeted case management, unless the Iowa plan contractor decertifies the member for case management services.

e. Services described by the following county chart of accounts codes:

(1) 4x03, information and referral.

(2) 4x04, consultation.

(3) 4x11, direct administrative.

(4) 4x12, purchased administrative.

(5) 4x21-374, case management Medicaid match.

(6) 4x32-328, home/vehicle modification.

ITEM 4. Rescind subparagraph **153.56(2)"a"(3)** and adopt the following **new** subparagraph in lieu thereof:

(3) Closing data system files on members as directed by the counties, or when the member has not had any payments processed for a six-month period.

ITEM 5. Rescind rule 441—153.57(331) and adopt the following **new** rule in lieu thereof:

441—153.57(331) Reduction, denial, or termination of benefits. The member's state payment program benefits may be denied, terminated, or reduced according to the provisions of the approved county management plan of the member's county of residence.

153.57(1) Termination of eligibility. A member shall remain eligible until:

a. Reimbursement for episodic commitment costs has been made to the county if the member was enrolled for commitment costs only;

b. The CPC in the county of residence notifies the state payment program manager that the member is no longer eligible;

c. No services have been reported for the member for six months; or

d. The member is disenrolled pursuant to subrule 153.57(2).

153.57(2) *Disenrollment.* If instituting a waiting list does not adequately address the funding shortfall, the department shall begin disenrollment of members.

a. Members who are enrolled and receiving services being reimbursed by the state and who are not under court-ordered involuntary commitment shall be disenrolled beginning with the highest payment slot number first.

b. The department shall notify the member and the CPC when a member is to be disenrolled. The department shall give the member at least ten days' notice of disenrollment pursuant to rule 441—7.7(17A). The department shall give a member receiving any residential service 30 days' notice of disenrollment from the program consistent with department of inspections and appeals' rule 481—57.36(135C).

c. Any member who is disenrolled shall be placed on the waiting list as provided in subrule 153.54(5).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.